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July 12, 2019

In the Matter of Possible Modifications to the Arizona Corporation Commission's Retail Electric Competition Rules, Docket No. RE-00000A-18-0405

Tucson Electric Power Company ("TEP") and UNS Electric, Inc. ("UNS Electric") (collectively the "Companies") stand ready to participate in what we hope will be a thorough evaluation of the prospect of retail electric competition. On July 1 and 2, Commission Staff filed proposed modifications to the Arizona Corporation Commission's ("Commission") Retail Electric Competition Rules ("Draft Rules").¹ The Draft Rules propose sweeping changes to the regulatory landscape in Arizona that warrant considerable analysis, discussion and stakeholder input.

I. Examining the Impact on ALL Customer Classes.

We strongly encourage the Commission to conduct a thorough examination of retail electric competition and the Draft Rules. This should include workshops to receive stakeholder input in order to gather enough information prior to making a decision that would fundamentally alter Arizona's energy landscape.

As currently written, the Draft Rules appear to provide full retail choice only to medium and large commercial and industrial customers. The Draft Rules would not allow direct participation by residential and small commercial customers nor would the Draft Rules as currently written protect these customers from shouldering a greater share of fixed system costs after third-party providers "cherry pick" higher energy use customers. These and other potential impacts on residential customers should be a key focus of the Commission's review.

While the Draft Rules do contemplate Community Choice Aggregation ("CCA"), the Commission must fully study the challenges and risks associated with CCAs, including: (i) the allocation of existing grid investments and cost shifting to other customers; (ii) energy price volatility; (iii) resource adequacy, especially during peak demand periods; (iv) customer education and awareness; (v) the availability of low-income assistance programs; and (vi) legal issues, including the Commission's ability to regulate municipalities as competitive providers.

II. Protecting the Public Interest.

The Commission should carefully consider whether the public interest would be served by allowing its authority over the provision of a critical service to be diminished in a restructured marketplace.

We are mindful of the Commission's concerns and recent deliberations regarding public health and safety, customer education, bill impacts and grid reliability. As fully regulated energy providers, our Companies are ideally positioned to implement the Commission's policies on these and other matters as part of our obligation to provide safe, reliable and affordable service.

¹ <https://docket.images.azcc.gov/E000001563.pdf> and <https://docket.images.azcc.gov/0000198874.pdf>

However, the Commission's authority over these critically important issues could be weakened in a restructured electric market.

For this and many other reasons, the Companies believe a restructured retail electric marketplace in Arizona would not serve the public interest. We outlined our position in considerable detail in 2013, during the Commission's last consideration of this matter.²

III. Avoiding Negative Consequences

Arizona already enjoys robust competition in the electric marketplace, with multiple providers competing to develop and deliver energy resources directly to customers and to participate in wholesale supply contracts with regulated utilities. Moreover, following the Commission's policy statement on buy-through programs, TEP has proposed a pilot program that would allow TEP's largest customers to access the wholesale energy marketplace.

Customers have their choice of multiple pricing plans, including various time-of-use and green energy options. These benefits are being delivered to customers by fully regulated public service corporations that provide good local jobs and invest in the success of the communities we serve. The Companies' rates are low, our service is reliable, and retail electric competition is a model that no state has adopted in more than a decade.

In light of these realities, the Companies question what benefits the Commission hopes to achieve through an expensive and tumultuous transition to a restructured electric marketplace that will likely result in higher rates and confusion for most customers.

The Companies would like to highlight the great risk of taking immediate action on this complex matter without a thorough evaluation of this issue and its implications. Those who see retail competition as a quick fix to the issues raised by utilities' critics have not likely considered the costs and consequences of such a transition, the continuing role that incumbent utilities would play in a restructured market, or the enduring impacts that would be felt by customers across Arizona. We trust that the Commission appreciates the gravity of this potential transition and will devote significant time to studying the implications before taking action on this complex issue.

IV. Numerous Issues Require Extensive Analysis.

As currently written, the Draft Rules are ambiguous and lack specificity regarding several important areas. If the Commission plans to consider the Draft Rules in their current form, there are numerous issues that require in-depth analysis including, but not limited to:

- The impact of the costs (both new costs and interclass cost shifts) and benefits of retail competition for each customer class, especially limited-income customers.
- The need for customer education and protection against predatory pricing, misleading marketing and other problems that have emerged in competitive retail electric markets.

² <https://docket.images.azcc.gov/0000147431.pdf>

- The degree to which this Commission would need to cede authority over Arizona energy policy to federal, out-of-state, regional or municipal authorities.
- The implications on integrated resource planning and the ability to transition to resources with lower carbon emissions.
- The need for an independent system operator to manage grid operations and ensure equitable access to transmission resources.
- The need for a regional capacity market to satisfy customers' energy demands and maintain an adequate reserve margin.
- A determination of the magnitude and subsequent recovery of stranded costs and investments.
- The cost of new information technology to coordinate the exchange and protection of customer and billing data.
- A full legal analysis to determine whether the Draft Rules will meet constitutional requirements.

V. The Draft Rules and Retail Competition are Incompatible with the Development of the Energy Rules Docket.

It is premature to develop long-term energy policies at the same time the Commission is considering modifications to Arizona's Retail Electric Competition Rules. Resulting modifications from Retail Competition could fundamentally alter Arizona's regulatory structure, thus reducing or eliminating the ability of existing utilities to achieve any of the policy objectives contemplated in the Energy Rules docket.

The Companies appreciate the Commission's interest in evaluating ideas that promise new benefits for Arizona utility customers. We see many such proposals in the Energy Rules docket, where the Commission is working to create rules that support the development of a cleaner, more responsive energy grid that provides customers with expanded options and greater control over their energy use. These efforts would be in vain, though, if the Commission's consideration of Arizona's Retail Electric Competition Rules ultimately leads to the restructuring of our electric marketplace. The potentially beneficial developments in the Energy Rules docket depend on the solid foundation provided by Arizona's current regulatory model, which commits our companies to the communities we serve and ensures our shared interest in maintaining safe, reliable, affordable and sustainable energy service.

The Companies look forward to providing further comment on these topics at the appropriate time.